



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Interim Executive Director

September 3, 2004

TO COUNTY ASSESSORS,
COUNTY COUNSELS, AND
OTHER INTERESTED PARTIES:

LTA NO. 2004/048

**NOTICE OF PROPOSED REGULATORY ACTION
BY THE
STATE BOARD OF EQUALIZATION**

**AMENDMENT OF THE RULES OF PRACTICE 5060 THROUGH 5064
ARTICLE 6. PROPERTY TAX WELFARE EXEMPTION CLAIM REVIEW PROCEDURE**

PUBLIC HEARING: TUESDAY, OCTOBER 19, 2004 AT 9:30 A.M.

NOTICE IS HEREBY GIVEN:

The State Board of Equalization, pursuant to the authority vested in the Board by section 15606, subdivision (c) of the Government Code, proposes to amend the Rules of Practice 5060, 5061, 5062, 5063 and 5064 (California Code of Regulations Title 18, Division 2, Chapter 20, Article 6. Property Tax Welfare Exemption Claim Review Procedure). A public hearing on the proposed amendments of the regulations will be held in Room 121, 450 N Street, Sacramento, at 9:30 a.m., or as soon thereafter as the matter may be heard, on October 19, 2004. Any person interested may present statements or arguments orally at that time and place. Written statements or arguments will be considered by the Board if received by October 19, 2004.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed amendments to the Rules of Practice 5060, 5061, 5062, 5063 and 5064 interpret and make specific statutory changes enacted into law applicable to welfare exemption claim filing requirements and hearing procedures for property tax welfare exemption appeals. (Senate Bill 1062 (Stats. 2003, Ch. 471, effective January 1, 2004). Senate Bill 1062 amended Revenue and Taxation Code section 254.5 and added section 254.6, to divide the welfare exemption claim review process. The Board reviews the organization's qualification for exemption, and the assessor reviews whether the nonprofit organization's property use qualifies for exemption. A nonprofit organization claiming the welfare exemption on its property for the first time must file a claim for an organizational clearance certificate with the Board. A nonprofit corporation that is the managing general partner of a limited partnership claiming exemption for a lower income housing property, is required to file a claim for a supplemental clearance certificate with the Board.

The Board issues an organizational clearance certificate to a nonprofit organization determined to satisfy the organizational requirements for exemption. A supplemental clearance certificate is issued to a nonprofit organization that is a qualifying managing general partner of a limited partnership. The rule amendments set forth Board hearing procedures for appeals by nonprofit organizations denied either an organizational clearance certificate or a supplemental clearance certificate.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that proposed amendments to Rules of Practice 5060, 5061, 5062, 5063 and 5064, do not impose a mandate on local agencies or school districts. Further, the Board has determined that proposed rule amendments will not result in direct or indirect costs or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5 (a)(8), the Board of Equalization makes an initial determination that the adoption of the proposed amendments to Rules of Practice 5060, 5061, 5062, 5063, and 5064 will not have a significant statewide adverse economic impact directly affecting business because the proposed rule amendments merely clarify and interpret existing code provisions relating to welfare exemption claim filing requirements.

The proposed rule amendments will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses, nor create or expand business in the State of California.

The rule amendments as proposed, will not be detrimental to California businesses in competing with businesses in other states.

The proposed rule amendments will not affect small business because the amendments only interpret and make specific existing statutory law and do not impose any additional compliance or reporting requirements on taxpayers.

COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

There will be no adverse economic impact on private businesses or persons because the proposed rule amendments interpret and make specific existing statutory law and do not impose any additional compliance or reporting requirements on private persons or businesses.

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

The Rules of Practice 5060, 5061, 5062, 5063, and 5064 have no comparable Federal regulations.

AUTHORITY

Government Code section 15606, subdivision (c).

REFERENCE

Sections 214 et seq., 256.5, 256.6 and 270 of the Revenue and Taxation Code, Article XIII, Sections 4(b) and 5, California Constitution.

CONTACT

Questions regarding the substance of the proposed rule should be directed to: Ms. Mary Ann Alonzo, Senior Tax Counsel, at the State Board of Equalization, P.O. Box 942879, 450 N Street, MIC:82, Sacramento, CA 94279-0082. Telephone: (916) 324-1392; FAX (916) 323-3387, e-mail MaryAnn.Alonzo@boe.ca.gov.

Written comments for the Board's consideration, requests to present testimony, bring witnesses to the public hearing and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, e-mail Diane.Olson@boe.ca.gov or Ms. Joann Richmond, Property Taxes Analyst, telephone (916) 322-1931, e-mail Joann.Richmond@boe.ca.gov or by mail to the State Board of Equalization, Attn: Diane Olson or Joan Richmond, MIC: 80, P.O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an initial statement of reasons and an underscored and strikeout version (express terms) of the proposed amendments to the rules. Those documents and all information on which the proposal is based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. Requests for copies should be addressed to Ms. Diane Olson, Regulations Coordinator, (916) 322-9569, at P. O. Box 942879, 450 N Street, MIC:80, Sacramento, CA 94279-0080. The express terms of the proposed amendments to the rules are available on the Internet at the Board's website <http://www.boe.ca.gov>

AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing on the adoption of the proposed amendments to the rules. It is also available for public inspection at 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with law, adopt the proposed rule amendments if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the rule amendments. The text of the modified rule amendments will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified rule amendments will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified rule amendments for fifteen days after the date on which the modified rule amendments are made available to the public.

STATE BOARD OF EQUALIZATION

/s/ Deborah Pellegrini

Deborah Pellegrini
Chief, Board Proceedings Division

DP:dgo
Attachments

RULES OF PRACTICE
of the
STATE BOARD OF EQUALIZATION

California Code of Regulations
Title 18, Public Revenues
Division 2. State Board of Equalization
Chapter 10. Petition and Hearing Procedures

ARTICLE 6. PROPERTY TAX WELFARE EXEMPTION CLAIM REVIEW PROCEDURE.

5060. DEFINITIONS; BOARD HEARING PROCEDURES; APPLICATION.

(a) The definitions in Article 7, Regulation 5070 shall apply to this Article, and Board hearings on petitions filed pursuant to this Article shall be conducted pursuant to the hearing procedures set forth in Article 7, commencing with Regulation 5070.

(b) The provisions of this ~~section~~ Article shall apply to property tax welfare exemption clearance certificate claims received by the Board pursuant to Section ~~254.5~~ 254.6 of the Revenue and Taxation Code.

Note: Authority: Section 15606(a), Government Code.
Reference: Sections ~~254.5~~ 254.6 and 270, Revenue and Taxation Code.

History: 1. New article 6 and section adopted 8-31-95; effective 1-1-96.
2. Change without regulatory effect amending article heading and section filed 3-19-98.

5061. SUPPLEMENTARY MATERIAL; APPLICATION FOR ADDITIONAL TIME TO SUBMIT SUPPLEMENTARY MATERIAL.

(a) Where, after analysis of a claim, Board Staff determines that the requirements of Section 214 ~~and following sections through Section 214.14, inclusive,~~ of the Revenue and Taxation Code have not been met, ~~for any one of the following reasons will be,~~ indicated on the Board's ~~annual welfare exemption~~ clearance certificate finding sheet to the claimant:

~~(1) Fund Raising Purposes (Coded – F.R.P.);~~

~~(2)~~(1) Religious Aspect Not Apparent (Coded - R.N.A.);

(2) Hospital Aspect Not Apparent (Coded – H.N.A.)

(3) Scientific Aspect Not Apparent (Coded – S.N.A.)

~~(3) Not Exclusively Used (Coded – N.E.U.);~~

(4) Charitable Aspect Not Apparent (Coded - C.N.A.);

~~(5) Vacant, Unused Property (Coded – V.U.P.);~~

(5) Management Authority of Nonprofit Managing General Partner Not Apparent (Coded – M.G.P.)

~~a~~ A preliminary notice shall accompany the finding sheet ~~information~~ sent to the claimant ~~informing that~~ the claimant that it has 30 days from the date of the notice to submit supplementary material supporting the claim.

(b) Upon written application filed within the noticed time limit, the claimant shall be granted an additional 30 days to submit the material.

Note: Authority: Section 15606(a), Government Code.

Reference: Sections 214, 214.01, 214.02, 214.05, 214.1, 214.2, 214.3, 214.4, 214.5, 214.6, 214.7, 214.8, 214.9, 214.10, 214.11, 214.13, 214.14, ~~254.5~~ 254.6 and 270, Revenue and Taxation Code.

History: 1. New section adopted 8-31-95; effective 1-1-96.

2. Change without regulatory effect amending subsection (a) and Note filed 3-19-98.

5062. PETITION TIME LIMIT.

Upon receipt of supplementary material, the ~~Board staff exemption officer~~ shall conduct a complete review of the claim. A final notice informing the claimant that the supplementary material provides or does not provide a basis for changing the original finding shall be issued. A no-change notice shall advise the claimant that it has ~~30~~ 60 days from the date of the notice to petition the Board for hearing on the claim.

Note: Authority: Section 15606(a), Government Code.

Reference: Sections ~~254.5~~ 254.6 and 270, Revenue and Taxation Code.

History: 1. New section adopted 8-31-95; effective 1-1-96.

2. Change without regulatory effect amending section filed 3-19-98.

5063. HEARING PETITION: CONTENTS.

(a) The petition for hearing shall be in writing and addressed to the Chief, of Board Proceedings ~~Division~~. It shall state all of the grounds upon which qualification is claimed, and shall include all documents the petitioner wishes the Board to consider in deciding the petition. The parties to the hearing or proceeding shall be the Board Staff and the petitioner. The parties may agree in writing to submit the matter to the Board for a decision without a hearing. The petition shall indicate whether an oral hearing is desired, and if so, ~~claimant's~~ petitioner's estimate of the time necessary therefor. If requested in the petition, ~~and in the event that the Board shall grants a hearing and hears the matter, the Board shall issue written findings and decision.~~ The petition shall be signed by an authorized representative of the ~~claimant's~~ petitioner and shall be mailed to the Chief, of Board Proceedings ~~Division~~ of the State Board of Equalization at Sacramento, California, or shall be deposited personally at the ~~headquarters office of the Board's headquarters office in~~ at Sacramento. The Chief, of Board Proceedings ~~Division~~ may require the representative to demonstrate the representative's authority to represent the ~~claimant's~~ petitioner.

(b) No later than 30 days after the date that the petition for hearing is received pursuant to subdivision (a), the Board Attorney assigned to the case shall schedule a meeting or telephone conference, at a time suitable for the petitioner ~~and the assessor~~, for the purpose of establishing the agreed upon and contested facts and the legal issues under consideration.

(c) The Board Staff shall submit an analysis of the petition, related documents and a staff recommendation for Board Action no later than 30 days prior to the date set for hearing or other action on the petition. The analysis and recommendation shall be submitted to the Chief, of Board Proceedings ~~Division~~ and a copy shall be sent to the petitioner.

(d) The petitioner may file a written response to the staff analysis and recommendation no later than 15 days before the date set for hearing or other action on the petition. The response shall be submitted to the Chief, of Board Proceedings ~~Division~~.

(e) The provisions of subdivisions (b) of Regulation 5075 shall apply to materials submitted pursuant to (a), (c) or (d) of this regulation.

(f) The Board Staff shall also prepare a summary for Board hearing, which shall be a neutral statement of the relevant facts, the issues, and the positions of the Legal ~~d~~Department and the ~~claimant~~.

petitioner. The summary for Board hearing shall not be written by any staff person or persons who reviewed the claim and determined it should be denied, or who participated in the preparation of the staff analysis and recommendation.

(g) The ~~Chief~~, Board Proceedings Division shall distribute the petition and related documents, the staff analysis and recommendation, the petitioner's response, if any, and the summary for Board hearing to the Board, the petitioner and the staff at the time agenda materials are distributed for the Board meeting at which the petition is to be considered.

(h) ~~A reasonable extension of time for filing materials under (c) or (d) above may be granted by the Chief, Board Proceedings Division, upon a showing of reasonable cause. The Chief of Board Proceedings, upon a showing of reasonable cause, may grant a reasonable extension of time for filing materials under (c) or (d) above.~~ The request for an extension of time shall be submitted in writing before the scheduled due date of any materials.

(i) The petition and related documents, the staff analysis and recommendation and related documents, and the petitioner's response to the staff analysis and recommendation shall be the only documents accepted for filing and distribution prior to a scheduled hearing. ~~Any other documents received shall be returned by the Chief, Board Proceedings Division.~~ The Board Proceedings Division shall return any other documents received to the person submitting the documents.

(j) The provisions of Regulation 5081.2 shall apply regarding the Board's issuance of written findings and decision.

Note: Authority: Section 15606(a), Government Code.
Reference: Sections ~~254.5~~ 254.6 and 270, Revenue and Taxation Code.

History: 1. New section adopted 8-31-95; effective 1-1-96.
2. Amendment adding subsection (a) designator, amending newly designated subsection (a), and adding new subsections (b)-(h) 11-19-97; effective 4-8-98.
3. New subsection (b), subsection relettering, and amendment of newly designated subsections (e) and (h) 3-8-01; effective 7-6-01.

5064. ORAL HEARINGS; WAIVER.

The Board shall schedule an oral hearing on a ~~Welfare Exemption~~ property tax welfare exemption clearance certificate petition. The petitioner shall receive 60 days notice of the hearing date and time, and the procedures shall be governed by Article 7. Oral hearing may be waived by the taxpayer and the matter submitted for decision on the basis of the written petition.

Note: Authority: Section 15606(a), Government Code.
Reference: Section ~~254.5~~ 254.6, Revenue and Taxation Code.

History: 1. New section adopted 11-19-97; effective 4-8-98.
2. Amendment of section 7-29-99; effective 10-31-99.